



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

September 17, 2020

BY ECF

Honorable Richard M. Berman
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

**Re: United States v. Turkiye Halk Bankasi, A.S.,
S6 15 Cr. 867 (RMB)**

Dear Judge Berman:

The Government writes pursuant to the Court's Order (Dkt. 669), directing the Government to respond to the defendant's letter, dated today, "object[ing] to tomorrow's hearing on Defendant's Motion to Dismiss the Indictment (ECF No. 645) proceeding as scheduled." Halkbank does not request any relief in its letter and, in any event, none is warranted. The Court has already denied Halkbank's motion to stay these proceedings pending the resolution of its latest mandamus petition because, among other reasons, the Court found that Halkbank was unlikely to succeed on the merits and would not suffer irreparable harm absent a stay. (Dkt. 664) Halkbank has not presented any valid basis to deviate from that well-reasoned conclusion. *See United States v. Mount Sinai Hosp.*, No. 13 Civ. 4735 (RMB), 2017 WL 2984024, at *1 (S.D.N.Y. June 9, 2017) ("[T]he standard for granting a . . . motion for reconsideration is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked.' Such motions are 'not a vehicle for relitigating old issues . . . or otherwise taking a second bite at the apple.'" (quoting *Analytical Surveys, Inc. v. Tonga Partners, L.P.*, 684 F.3d 36, 52 (2d Cir. 2012) (brackets omitted), *as amended* (July 13, 2012))).

Halkbank has now sought the same stay from the Second Circuit, and has specifically cited the September 18, 2020 oral argument as a basis for expedited consideration of that motion. The Government responded to Halkbank's motion earlier this morning, pursuant to direction from the Second Circuit Clerk's Office. If the Second Circuit believes that Halkbank truly would be harmed by merely holding oral argument before this Court, then the Second Circuit will act. Of course, as this Court has already concluded, Halkbank will not suffer any harm from proceeding, because, even if the Second Circuit were to grant Halkbank's mandamus petition, the harm caused by an erroneous denial of a recusal motion "is usually not irreparable since [the Second Circuit] retains its traditional power to grant a new trial if the district court's ruling ultimately turns out to be

incorrect.” *Armstrong v. McAlpin*, 625 F.2d 433, 438 (2d Cir. 1980) (*en banc*), *vacated on other grounds*, 449 U.S. 1106 (1981).

Accordingly, the Government respectfully requests that the September 18, 2020 oral argument proceed as scheduled.

Respectfully submitted,

AUDREY STRAUSS
Acting United States Attorney

by: /s/
Michael D. Lockard / Sidhardha Kamaraju / David
W. Denton, Jr. / Jonathan Rebold / Kiersten Fletcher
Assistant United States Attorneys

cc: Counsel of record (by ECF)